

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RYAN R. VOKAC,

Plaintiff,

v.

CODILIS AND ASSOCIATES, P.C.

Defendant.

CIVIL ACTION

COMPLAINT 1:17-cv-01572

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES the Plaintiff, RYAN R. VOKAC, by and through his attorneys, SULAIMAN LAW GROUP, LTD., complaining of the Defendant, CODILIS AND ASSOCIATES, P.C., as follows:

NATURE OF THE ACTION

1. This is an action brought by a consumer for violation(s) of the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction exists over the Fair Debt Collection Practices Act claim(s) under 28 U.S.C. §§ 1331 and 1337.
3. Venue is proper under 28 U.S.C. §1391(b) as a substantial part of the events giving rise to the claims took place in the Northern District of Illinois.

PARTIES

5. RYAN R. VOKAC ("Plaintiff") is a natural person, over 18-years-of-age, who at all times relevant resided at the property commonly known as 8 Stonegate Road, LaGrange Park, Illinois 60526.

6. CODILIS & ASSOCIATES, P.C. is a professional corporation formed under the laws of the State of Illinois. Codilis & Associates, P.C. has a principal place of business located at 15W030 North Frontage Road, Burr Ridge, Illinois 60527.

FACTUAL ALLEGATIONS

7. On January 25, 2006, Plaintiff executed a mortgage in favor of HomeComings Financial Network, Inc., to secure a promissory note in the amount of \$143,120.00.
8. On or about February 27, 2006 HomeComings Financial Network, Inc. assigned all its right, title and interest in the mortgage loan to RALI Series 2006-QS2 Trust.
9. On February 15, 2013, Ocwen Loan Servicing, LLC acquired the servicing rights to Plaintiff's mortgage loan from GMAC Mortgage LLC.
10. On November 1, 2015, Plaintiff defaulted on the subject mortgage loan by failing to pay the monthly installments of principal, taxes, interest and insurance.
11. On December 31, 2015, a bankruptcy case concerning Plaintiff was filed under Chapter 13 of the United States Bankruptcy Code.¹
12. On January 21, 2016, Aldridge Pite, LLP filed its Entry of Appearance and Request for Notice on behalf of Ocwen Loan Servicing, LLC.
13. On February 29, 2016, Plaintiff filed a Modified Chapter 13 Plan, which provided that “[p]ursuant to 11 U.S.C. § 1322(b)(9), legal title to [3713 Grand Boulevard, Unit 7, Brookfield, Illinois 60513] shall vest in Ocwen Loan Servicing, LLC and Ditech Financial LLC upon confirmation of the Debtor's Chapter 13 Plan.”
14. Ocwen Loan Servicing, LLC failed to object to Plaintiff's Modified Chapter 13 Plan; thus, constituting acceptance.

¹ Case No. 1:15-bk-43784 (*In re Ryan Robert Vokac*)

15. On March 8, 2016 an Order Confirming Plan was entered by the Honorable Judge Carol A. Doyle.
16. On March 28, 2016, the Order Confirming Plan was recorded with the Cook County Recorder of Deeds constituting a deed of conveyance.
17. On June 24, 2016, U.S. Bank National Association, as Trustee, for RALI Series 2006-QS2 Trust (“U.S. Bank, N.A.”), through Codilis & Associates, P.C., filed its Complaint to Foreclose Mortgage to foreclose, naming Plaintiff present owner(s) and naming Plaintiff personally responsible for any deficiency.
18. On September 26, 2016, U.S. Bank N.A., through Codilis & Associates, P.C, pursued and obtained an Order of Default and Judgment of Foreclose and Sale against Plaintiff.

DAMAGES

19. Codilis & Associates, P.C.’s acts and omissions are the proximate causation of Plaintiff’s aggravation, credit damage, frustration, inconvenience, and opportunity cost.

COUNT I – VIOLATION OF 15 U.S.C. § 1692e(2)

20. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.
21. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).
22. The mortgage loan is a “debt” as defined by 15 U.S.C. § 1692a(5).
23. Codilis & Associates, P.C. is a “debt collector as defined by 15 U.S.C. § 1692a(6).
24. Codilis & Associates, P.C. is attempting to collect a debt used for “household purpose” as defined by 15 U.S.C. § 1692a(5).
25. Section 362(a)(6) of the United States Bankruptcy Code provides:
 - (a) [A] petition filed *** operates as a stay, of –

- (6) any act to collect, assess or recover a claim against the debtor that arose before the commencement of the case under this title.
26. Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(2) by falsely representing the character, amount or legal status of Plaintiff's mortgage loan – pursuant to the terms of Plaintiff's confirmed Chapter 13 Plan, as Plaintiff no longer maintained an equitable, legal, or possessory interest in the property pursuant to 11 U.S.C. § 1322(b)(9).
27. Moreover, Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(2) by falsely representing the character, amount or legal status of Plaintiff's mortgage loan – pursuant to 11 U.S.C. § 362(a)(6) and 11 U.S.C. § 1322(b)(9), Plaintiff no longer was personally responsible for any deficiency.
28. Plaintiff may enforce the provisions of 15 U.S.C. § 1692e(2) pursuant to section k of the Fair Debt Collection Practices Act (15 U.S.C. § 1692k) which provides "any debt collector who fails to comply with any provision of [the Fair Debt Collection Practices Act] with respect to any person is liable to such person in an amount equal to the sum of -
 - (1) any actual damage sustained by such person as a result of such failure;
 - (2)
 - (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000.00; or
 - (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney's fees as determined by the court.

WHEREFORE, Plaintiff requests the following relief:

- a. find that Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(2);
- b. award actual, and statutory damages, and costs of this action including expenses together with attorneys' fees as determined by this Court; and
- c. grant any other relief deemed appropriate and equitable.

COUNT II – VIOLATION(S) OF 15 U.S.C. § 1692e(10)

29. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.
30. Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(10) by using false representation or deceptive means to collect or attempt to collect Plaintiff's mortgage loan – pursuant to the terms of Plaintiff's confirmed Chapter 13 Plan, as Plaintiff no longer maintained an equitable, legal, or possessory interest in the property pursuant to 11 U.S.C. § 1322(b)(9).
31. Moreover, Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(10) by using false representation or deceptive means to collect or attempt to collect Plaintiff's mortgage loan – pursuant to 11 U.S.C. § 362(a)(6) and 11 U.S.C. § 1322(b)(9), Plaintiff no longer was personally responsible for any deficiency.
32. Plaintiff may enforce the provisions of 15 U.S.C. § 1692e(10) pursuant to section k of the Fair Debt Collection Practices Act (15 U.S.C. § 1692k) which provides "any debt collector who fails to comply with any provision of [the Fair Debt Collection Practices Act] with respect to any person is liable to such person in an amount equal to the sum of -
 - (1) any actual damage sustained by such person as a result of such failure;
 - (2)
 - (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000.00; or
 - (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney's fees as determined by the court.

WHEREFORE, Plaintiff requests the following relief:

- a. find that Codilis & Associates, P.C. violated 15 U.S.C. § 1692e(10);

- b. award actual, and statutory damages, and costs of this action including expenses together with attorneys' fees as determined by this Court; and
- c. grant any other relief deemed appropriate and equitable.

Plaintiffs demand trial by jury.

February 28, 2017

Respectfully submitted,

/s/ Joseph Scott Davidson

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